

Kentucky Environmental Quality Commission Public Meeting

Annual Meeting

Meeting Minutes

December 18, 2003
Vest Lindsey House
Frankfort, Kentucky

EQC Commissioners Present

Aloma Dew, Chair
Jean Dorton
Lindell Ormsbee
Gordon Garner
Patty Wallace
Betsy Bennett, Vice-chair
Gary Revlett

Speakers/Representatives Present

Jeff Pratt, Division of Water
Tom VanArsdell, Division of Water
Secretary Hank List, NREPC

EQC Staff Present

Leslie Cole, Executive Director
Erik Siegel, Assistant Director
Frances Kirchhoff, Executive Secretary

EQC YEAR IN REVIEW

The Chair, Aloma Dew, called the meeting to order at 10 a.m. Executive Director, Leslie Cole, began the meeting by looking back at 2003 EQC priorities and accomplishments.

Priority 1

Facilitate Public Discussion of Key Issues

EQC will continue to work to strengthen the public role in solving environmental problems in our communities and in the state. EQC will target key issues, conduct public meetings and formulate recommendations on environmental issues of concern.

2003 meetings

- 1) January 17, 2003 - EQC annual meeting reviewed the accomplishments of the previous year and set 2003 priorities.
- 2) April 8, 2003 - Meeting with Sec. List to discuss EQC priorities/budget.
- 3) April 14, 2003 - EQC Annual Earth Day Awards
- 4) May 8, 2003 - Environmental Future (strategic plan) and Budget Reduction Impacts.
- 5) June 16-17, 2003 - Martin County Coal Slurry Spill Forum (evening forum) and tour.
- 6) July 15, 2003 - Toxics, Water, Air Quality.
- 7) October 16- 17, 2003 - Children's Health and the Environment Public Forum
- 8) November 19, 2003 - Energy Issues: Oil and Natural Gas drilling trends and issues.
- 9) December, 2003 - EQC annual meeting to set the 2004 agenda.

Priority 2

Develop High Quality Recommendations

- 1) March 20, 2003 - Daniel Boone National Forest Funding. -- Gov. response.
- 2) March 24, 2003 - Support for Funding for the Appalachian Regional Commission.
--Ken Lucas Response. --Ernie Fletcher Response.
- 3) May 12, 2003 - Noncoal proposed regulations - support with exception of allowing mining on environmentally sensitive public lands. --No response

- 4) May 27, 2003 - EQC calls for full review of oil and gas program. --*No response*.
- 5) June 15, 2003 - Strengthen public outreach and participation in Martin County Coal Slurry Spill Restoration Plan. --*U.S. EPA Response*.
- 6) July 15, 2003 - Resolution on West Nile Virus and public notification of pesticide spraying. --*Cabinet for Health Services Response*
- 7) Nov. 17, 2003. EQC expresses concern regarding surface mining rule affecting public roads. --*No response*.
- 8) Action on 49 NREPC proposed regulations.

Priority 3

Monitor and Report on Environmental Conditions in Kentucky

EQC will continue to assess the effectiveness of state efforts to protect the environment. More than 100 indicators will be used to review environmental and natural resource conditions in the state and allow Kentucky to better track areas of progress and problems.

- 1) The Road Ahead - EQC authored chapter on environmental trends for Ky. Long Term Policy Research Board (2003).
- 2) Kentucky's Environmental Future - EQC authored article in Sustain Magazine (Univ. of Louisville) on environmental trends and issues affecting the future of the environment (fall/winter 2003)
- 3) Children's Environmental Health - set of 14 indicators - to be published Jan. 2004.
- 4) Oil and Gas Environmental Indicators - set of 12 indicators to be published March 2004.
- 4) Indicator of the Month - developed and posted on the EQC Web site. First indicator of the month is asthma.

Priority 4

Promote Partnerships for a Clean Environment and Prosperous Economy

Government alone cannot solve environmental problems. It will take partnerships to protect the environment and build a strong economy. EQC promoted or was involved in several partnerships including:

- 1) EQC Pine Mountain Nature Tourism Initiative - In 2003, EQC worked with the Tourism Cabinet, Ky. Appalachian Commission, and others to develop a white paper and set of recommendations to promote nature-based tourism in the Pine Mountain region.
- 2) Pine Mountain Executive Order - EQC drafted an executive order to create the Pine Mountain Nature Tourism Partnership which was signed by Gov. Patton On Dec. 1. P. Wallace participated.
- 3) Children's Environmental Health - EQC partnered with the Children's Environmental Health Working Group to hold a public forum and workshop on children's environmental health. EQC has joined the working group as a member.
- 4) Watershed Roundtable. EQC was a sponsor of the first Watershed Roundtable and served as a facilitator to promote discussion on water quality issues.
- 5) EQC Presentation to the Ohio River Basin Commission - by G. Garner.
- 6) EQC Keynote at Ky. Waterways Alliance Annual Meeting - by P. Wallace.
- 7) South African Delegation Exchange -EQC went international and provided information on water quality issues and programs to a delegation of teachers from S. Africa (B. Bennett, G. Garner, L. Lyle).

Priority 5

Public Outreach and Information

EQC will continue to offer the public timely information in a cost efficient manner.

- 1) EQC virtual meetings - interactive summation of EQC meetings on the commission's Web site.

2) 5 EQC Bimonthly Newsletters were published to notify the public of state/federal notices, meetings, public hearings, proposed regulations as well as state environmental news. EQC converted 781 of its mail subscribers to e-mail in order to save postage and printing costs. Current snail mail is 3,048.

3) EQC Inquiry Service was offered through the EQC Web site at www.kyeqc.net to respond to public concerns in a timely and efficient manner. During 2003 1,300 inquiries were received.

4) EQC Public Opinion Survey - Report on results was generated and articles written in EQC newsletter and NREPC magazine.

Priority 6

Build an environmental literate citizenry

Promoting individual responsibility and actions for a clean environment is critical if Kentucky is to continue to make progress in protecting the environment. EQC will work with others to advance a better understanding of the environment and promote positive actions.

1) EQC held its annual Earth Day Ceremony to honor Kentuckians for outstanding service to the environment and promote individual, industry and government responsibility.

2) Lesson units for the State of Kentucky's Environment report are a partnership between EQC, the Kentucky Environmental Education Council and several teachers.

3) EQC partnered with the Kentucky Environmental Education Council to assist with the Youth Environment Summit on Smart Growth that was held May 2003.

4) 2003 Spirit of the River Award - Presented to EQC (Patty Wallace) by the Ky. Waterways Alliance.

Other Priority Actions

Secure the EQC Budget

1) Legislative budget action. The EQC budget was under attack during 2003 and generated considerable calls, emails and faxes of support. EQC staff and commissioners took an active role in lobbying for the budget.

2) Securing one-time funds. EQC staff and commissioners secured one-time funds to continue operation of EQC until June 30, 2004.

2004 EQC PRIORITIES

Secretary Hank List joined the commission to discuss Cabinet issues and priorities. After a lunch break, the Commissioners began working on its 2004 priorities. It was suggested by Gordon Garner that we share the proposed priorities with the new Cabinet Secretary LaJuana Wicher and get her input. Commissioners also discussed the EQC budget and the reorganization of the cabinet. Draft listing of EQC priorities are:

Forestry- State of the Forest – Consensus Actions

- ☐ Forestry Forum/Eastern Kentucky University (partner with the U.S. Forest Service, Forestry Best Management Practices Board) to discuss the findings of the most recent forest survey of the state (due early next year)

Energy Issues – Open a dialogue on various energy issues in Kentucky

- ☐ Renewable Energy Sources
- ☐ Energy efficiency
- ☐ Oil and gas drilling issues and needs
- ☐ Disposal of fly ash/Power plants
- ☐ Mountaintop mining/slurry ponds/blackwater spills
- ☐ Kentucky Energy Policy

Cabinet Reorganization – Review the new structure of NREPC

Public Notification/Participation – Improving the way we inform and involve the public

2004 Legislative Session – Review and offer input

- ☐ EQC Budget restoration
- ☐ Environment and natural resources legislation
- ☐ NREPC budget

Water Quality/Safe Drinking Water – Review ongoing issues and needs

- ☐ Critical issues facing drinking water systems/Boil water notices
- ☐ Extension of waterlines/sewer lines - development issues
- ☐ Status of private sources of drinking water (water wells/cisterns)
- ☐ TMDLs/Wetlands/watersheds

Farmland/Ag issues – Define opportunities to promote farmland conservation/stewardship

- ☐ Update on loss of prime farmland, development pressures, PACE
- ☐ Agriculture water quality plans/NPS pollution

Natural Resources – Review management and other issues facing natural areas in Kentucky

- ☐ Exotic species
- ☐ Update on natural areas inventory and purchase efforts

Toxics – Review concerns and policy needs

- ☐ Mercury and other PBTs
- ☐ Brownfields
- ☐ Air toxics

Children's Environmental Health (follow-up from 2003) - Target children's environmental health issues in Kentucky

- ☐ Asthma in Kentucky
- ☐ Healthy schools
- ☐ Second hand smoke – Promoting smoke free environments

Earth day – EQC Award Ceremony - Help Sponsor statewide celebration

EQC ACTION ON PROPOSED REGULATIONS

EQC next reviewed and took action on the proposed amendments to the state's water quality standards. Jeff Pratt, Director, and Tom VanArsdell, Ky. Division of Water, gave an overview of the Division of Water Regulations:

401 KAR 5: 002
401 KAR 5: 026
401 KAR 5: 029
401 KAR 5: 030
401 KAR 5: 031

After discussion, the regulations were voted on separately.

401 KAR 5:002 - Gary Revlett made a motion to approve, seconded by Lindell Ormsbee, motion passed on voice vote.

401 KAR 5:026 - Lindell Ormsbee made a motion to approve, seconded by Jean Dorton, motion passed on voice vote.

401 KAR 5:029 - Gary Revlett made a motion to approve seconded by Lindell Ormsbee, motion passed on voice vote.

401 KAR 5:031 - Lindell Ormsbee made a motion to approve, seconded by Gary Revlett, motions passed on voice vote.

401 KAR 5:030 - Gordon Garner made a motion to disapprove on the grounds that justification for the various exemptions/variances to Kentucky's antidegradation policy were not supported by evidence and may not meet the requirements of the Clean Water Act. These include storm water discharges, coal mining discharges subject to the Surface Mining Reclamation and Control Act, domestic sewage discharges from single-family residences, concentrated animal feeding operations, publicly owned treatment works and KPDES permit renewals that result in less than a 20 percent increase in pollutant loadings from the previously permitted loading.

EQC cited an Aug. 29, 2003 ruling by the United States District Court for the Southern District of West Virginia that stated "EPA acted arbitrarily and capriciously in approving West Virginia's antidegradation procedures" and that "EPA failed to ensure, in a number of respects, that West Virginia's antidegradation implementation procedures were consistent with minimum federal requirements." The plaintiffs had argued that the policy allowed too many exemptions and loopholes to be consistent with the requirements of the Clean Water Act. The ruling has placed the burden of proof on the delegated permitting authority to demonstrate discharges that degrade water quality are necessary.

Betsy Bennett seconded the motions, motion passed on voice vote.

ELECTION OF OFFICERS

The Commissioners voted to elect Lindell Ormsbee, Chair and Betsy Bennett as Vice-chair.

Commissioners rotating off the Commission were Jean Dorton (who will not seek reappointment) and Aloma Dew. Ms. Dorton served for 3 years and Ms. Dew served 12. Both were presented Tom Barn's photography book for their service to the Commonwealth of Kentucky.

Commissioner Dew was also presented with a State Park gift certificate for her many years of service to EQC as Chairperson.

APPROVAL OF MINUTES

October 16 minutes - Gordon Garner made a motion to approve the minutes, seconded by Gary Revlett, passed on voice vote.

November 19 minutes - Lindell Ormsbee made a motion to approve the minutes, seconded by Gary Revlett, passed on voice vote.

NEXT COMMISSION MEETING

The next meeting of EQC is scheduled January 15, 2004. With no further business, the meeting adjourned at 3:30 p.m.



Signed Lindell Ormsbee, Chair

Date